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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/818,999

03/28/2001

Norbert Egger

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9755

25269

7590

09/22/2004

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EXAMINER

NGUYEN, TAM M

ART UNIT

PAPER NUMBER

3764

DATE MAILED: 09/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/818,999

Applicant(s)

EGGER, NORBERT

Examiner

Tam Nguyen

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) 6-8, 10-31, 34-39 and 41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9, 32, 33 and 40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5-11-04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "opening... in the waist area" disclosed in claim 1, lines 6 and 7 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "housing 158" on Page 21, Paragraph 1. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

3. Claims 1-5, 9, 32 and 33 are objected to because of the following informalities:

Claim 1, line 2, delete "using the apparatus".

Claim 32, line 2, delete "using the apparatus".

Claim 33, line 2, delete "for".

Claims 2-5 and 9 are objected to for being dependent on an objected base claim.

Appropriate corrections are required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whalen et al. (5,133,339).

4. As to claims 1, 2 and 9, Whalen discloses an apparatus for physical training, the apparatus comprising an air-tight housing (50) which has an opening that is capable of tight enclosure around the waist of the user, exercise equipment within the housing, and a device for creating a differential pressure within the housing compared to the ambient atmospheric pressure surrounding said housing (see fig. 1a & Col. 7, lines 33-37).

Whalen does not disclose an exercise bicycle and an adjustable seat for supporting the weight of the person inside the housing; however, he does mention the possible use of such an exercise device inside the housing (see Col. 6, lines 49-56). The term "other exercise equipment" may include any of a plurality of exercise devices such as a cycling exerciser.

5. As to claim 3, Whalen discloses a modified apparatus as described above.

Whalen also discloses that the device (120,130) for producing differential pressures

operates to pump a predetermined amount of air through the housing and operates to pump air out of the housing (see Fig. 5b & Col. 7, lines 33-37 and 45-63).

6. As to claims 4 and 5, Whalen discloses a modified apparatus as described above. Whalen does not disclose that the pressure is reduced by a differential pressure as claimed; however, Whalen does mention that the users of the apparatus were subjected to incremental increases and decreases in pressure (see Col. 4, lines 42-47). It is obvious to a person of ordinary skill in the art that the pressure could have been increased or decreased at any of a plurality of increments including those specified by the applicant.

7. As to claims 32,33 and 40, whalen discloses a modified apparatus as substantially claimed (see discussion of claims 1-5).

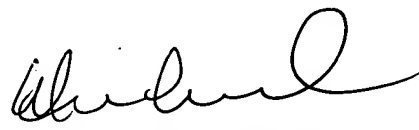
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tam Nguyen whose telephone number is 703-305-0784. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on 703-308-2698. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 17, 2004



NICHOLAS D. LUCCHESI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700